

STATE OF VERMONT
HUMAN SERVICES BOARD

In re)	Fair Hearing No. 20,556
)	
Appeal of)	

INTRODUCTION

The petitioner appeals a decision of the Department for Children and Families, Health Access Eligibility Unit (HAEU) finding him ineligible for Medicaid and Vermont Health Access Program (VHAP) benefits. The issue is whether the petitioner's income exceeds these programs' maximums.

FINDINGS OF FACT

1. The Department notified the petitioner in September 2006 that due to his receipt of disability benefits he was no longer eligible for Medicaid. The petitioner does not dispute that he currently has gross monthly income of \$1,367 from Social Security disability benefits.

2. Based on this income the Department determined that he had to incur a Medicaid spenddown amount of \$2,724 for the six-month period beginning September 1, 2006 before he could be eligible for Medicaid coverage.

3. It appears that the Department has also determined that the petitioner is ineligible for VHAP based on his income.

4. Within the last year the petitioner has been diagnosed with cancer, and he has undergone extensive biopsies and an operation to remove a tumor in his chest that had spread to other internal organs. He is undergoing extensive follow up treatment, which is soon likely to include chemotherapy. He is also HIV positive. His present medical treatments already cost over \$1,000 a month, only some of which is covered by other programs for which he qualifies. However, it does not appear that he will be able to work full time anytime in the foreseeable future, and it is likely that the financial consequences of his illness and treatment will be devastating.

ORDER

The decision of the Department is affirmed.

REASONS

For Medicaid, the maximum allowable income for a single person is \$841 a month. W.A.M. § P-2420. Eligibility is determined over a six-month period. § M402.1. Individuals may qualify for Medicaid coverage by "spending down" their

income that is in excess of the maximum. § M410. In this case, it appears the Department has considered all the petitioner's verifiable recurring medical and prescription costs, and allowed them as a deduction from his income. However, even this net amount resulted in a six-month spenddown of \$2,724. The petitioner has been advised that when he incurs additional medical expenses, these can also be applied to his spenddown.

Under the VHAP regulations all income is included as countable in determining eligibility. W.A.M. § 4001.81(c). Unfortunately, however, for individuals in the petitioner's position, there are no deductions for medical expenses in the VHAP program (although the Board has often noted what it considers to be the glaring unfairness of this feature—i.e., that VHAP, unlike Medicaid, does not target benefits to those who need it most). It appears that the petitioner's countable income (\$1,367) is only slightly in excess of the maximum for eligibility under the VHAP program for one person, which is presently \$1,232 a month. § P-2420 B. However, if applicants have income even one dollar above this amount, *regardless of their medical situation*, they cannot be found eligible for any benefits under that program. W.A.M. §§ 4001.83 and 4001.84.

Inasmuch as there is no dispute that the Department's decisions are in accord with its regulations, the Board is bound to uphold them. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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